

DETAILED ACTION

1. The amendment filed 01/24/2008 has been received and entered. Application 10/529162 has been received and entered. Application 10/529162 Claims 1-12, 24-25, and 27-39 are now pending. Claims 13-23, and 26 are cancelled.

Response to Amendment

2. The 35 USC 112 rejection to claims 1-2 and 4 has been withdrawn. Applicant's argument has overcome claims rejections under 35 USC 102(b) and 35 USC 103(a). The rejection to 35 USC 101 is reintroduced with minor adjustments as seen below.

Priority

3. Applicant is advised of possible benefits under 35 U.S.C. 119(a)-(d), wherein an application for patent filed in the United States may be entitled to the benefit of the filing date of a prior application filed in a foreign country. According to the M.P.E.P. 706.02 (b) Part (E): The foreign priority filing date must antedate the reference and be perfected. The filing date of the priority document is not perfected unless the applicant has filed a certified priority document in the application (and an English language translation, if the document is not in English) (see 37 CFR 1.55(a) (3)). The

Japanese application: JP 2002-280498 Filed, 09/26/2002, was not provided with an English translation. Should the applicant desire to obtain the benefit of foreign priority under 35 USC 119(a)-(d) prior to declaration of interference a certified English translation of the foreign application must be submitted in reply to this action. 37 CFR 41.154(B) and 41.202(e). Failure to provide a certified translation may result in no benefit being accorded for the non-English application

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-12, 24-25, and 27-39 are rejected under 35 U.S.C. 101 because they are directed to non- statutory subject matter.

With respect to claims 1-12, 24-25, and 27-39, a condition data collecting system is being claimed which appears to contain no hardware as stated in the specification (Page 25, Lines 17-19). The claim constitutes, software, per se. Software is not one of the statutory subject matters. Claims 1-12, 24-25, and 27-39 lack the necessary physical articles or objects to

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constitute a machine or a manufacture with the meaning to 35 USC 101. It is clearly not a series of steps or acts to be a process not is a combination of chemical compounds to be a composition of matter. As such claims 1-12, 24-25, and 27-39 fail to fall within a statutory category. It is, at best, software per se, and constitutes non- statutory subject matter.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-12, 24-25, 27-30, and 33-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lys et al (US Patent No: 6,577,080 B2), hereinafter "Lys," further in view of Wang et al (US Patent No: 6,885,748 B1) hereinafter "Wang."

With respect to claim 1, Lys discloses "A condition (Column 42, Line 34) data (Column 41, Line 1) collecting system for

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promoting a growth (Column 62, Line 55) or health (Column 63, Line 1) of living organisms (Column 70, Line 35) that is communicably connected (Column 10, Line 58) with comprising multiple controlling systems (Column 4, Line 33; Column 5, Lines 3-31 & 34) that promote a growth (Column 62, Line 55) or health (Column 63, Line 1) of living organisms (Column 70, Line 35) by controlling (Column 4, Line 33; Column 5, Lines 3-31 & 34) at least a light (Column 69, Line 10) irradiated (Column 32, Line 60; Column 33, Line 10-11) on the living organisms (Column 70, Line 35) by a light (Column 69, Line 10) irradiating means (Column 32, Line 60; Column 33, Line 10-11) and an information processing system (Column 61, Line 15) that is communicably connected (Column 10, Line 58) with the controlling systems (Column 4, Line 33; Column 5, Lines 3-31 & 34) characterized by that:, comprising: the information processing system (Column 61, Line 15) includes an environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) receiving part that receives (Column 40, Line 65; Column 41, Lines 35-37) relevant (Column 64, Lines 27 & 40) environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) as which is data (Column 41, Line 1) concerning an environment (Column 32, Line 54; Column 34, Line 44) of the living organism (Column 70, Line 35) including the light (Column 69, Line 10) irradiated (Column

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32, Line 60; Column 33, Line 10-11) on the living organism (Column 70, Line 35) from the first controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34); an environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) administrating part that administers (Column 55, Line 22; Column 69, Line 38) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) received (Column 40, Line 65; Column 41, Lines 35-37) by the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) receiving part (Column 40, Line 65; Column 41, Lines 35-37); an environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) delivering part (Column 7, Line 2) that obtains the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) administered (Column 55, Line 22; Column 69, Line 38) by the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) administrating part (Column 55, Line 22; Column 69, Line 38) and delivers (Column 7, Line 2) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) to the second controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34); in return for disclosing a proprietary environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) produced by the first controlling system (Column 4, Line 33; Column 5, Lines 3-

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31 & 34) to the second controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34), in relationship to a controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34) identifier that identifies (Column 46, Lines 26 & 33-36; Column 47, Lines 5 & 22) the first controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34) when the proprietary environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) is received (Column 40, Line 65; Column 41, Lines 35-37) or delivered (Column 7, Line 2) and the first controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34) includes a request signal (Column 40, Line 61; Column 41, Line 11; Column 42, Lines 3-5) transmitting part that transmits (Column 40, Line 59; Column 41, Lines 5-8) a request signal (Column 40, Line 61; Column 41, Line 11; Column 42, Lines 3-5) to the information processing system (Column 61, Line 15) requesting delivery (Column 7, Line 2) of environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) that is specified by an environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) identifier (Column 46, Lines 26 & 33-36; Column 47, Lines 5 & 22) by an environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) identifier (Column 46, Lines 26 & 33-36; Column 47, Lines 5 & 22); an environmental (Column 32, Line 54; Column 34, Line 44) data

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(Column 41, Line 1) receiving part that receives (Column 40, Line 65; Column 41, Lines 35-37) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) delivered by (Column 7, Line 2) the information processing system (Column 61, Line 15); a control means controlling part (Column 4, Line 33; Column 5, Lines 3-31 & 34) that controls (Column 4, Line 33; Column 5, Lines 3-31 & 34) one or multiple environment (Column 32, Line 54; Column 34, Line 44) control (Column 4, Line 33; Column 5, Lines 3-31 & 34) means to control (Column 4, Line 33; Column 5, Lines 3-31 & 34) the environment (Column 32, Line 54; Column 34, Line 44) of the living organism (Column 70, Line 35) based on the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1); and a measured (Column 42, Lines 10-20) environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) receiving part that receives (Column 40, Line 65; Column 41, Lines 35-37) measured (Column 42, Lines 10-20) environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) indicating measured values (Column 42, Lines 10-20) of the environment (Column 32, Line 54; Column 34, Line 44) of the living organism (Column 70, Line 35) from the environment (Column 32, Line 54; Column 34, Line 44) measuring means that measures (Column 42, Lines 10-20) the relevant

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(Column 64, Lines 27 & 40) environment (Column 32, Line 54; Column 34, Line 44).

Lys does not explicitly disclose "royalty data."

However, Wang discloses "yielding a royalty," (Column 15, Lines 1-2).

Lys and Wang are analogous art because they are from the same field of endeavor involving data processing.

At the time of invention, it would have been obvious to one of ordinary skill to in the art, having the teachings of Lys and Wang before him or her, to modify the teachings of Lys by adding a way to yield royalty as taught by Wang. The motivation for doing so would enable a user to distribute up to 100,000 copies of a document at a \$1.00 per copy royalty with additional copies yielding a \$2.00 royalty (Column 14, Line 67; Column 15, Lines). Adding usage-based payments made by one party to another is advantageous with regard to ongoing use of an asset. The cited additional element would not interfere with the functionality of steps previously claimed and would perform the same function.

Therefore it would have been obvious to combine Lys with Wang to obtain the invention as specified in the instant claim(s).

With respect to claim 2, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system of Claim 1 wherein the information processing system (Column 61, Line 15) further comprising includes: a state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) receiving part (Column 40, Line 65; Column 41, Lines 35-37) that receives (Column 40, Line 65; Column 41, Lines 35-37) state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) as being data (Column 41, Line 1) concerning a state (Column 42, Lines 12 & 28; Column 70, Line 57) of the culture or cure of living organisms (Column 70, Line 35); a state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) administrating part that administers (Column 55, Line 22; Column 69, Line 38) the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) received (Column 40, Line 65; Column 41, Lines 35-37) by the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) receiving part (Column 40, Line 65; Column 41, Lines 35-37); and a state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) delivering part that delivers (Column

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7, Line 2) a part or all of the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) administered by (Column 55, Line 22; Column 69, Line 38) the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) administrating part (Column 55, Line 22; Column 69, Line 38) to the second controlling system," (Column 4, Line 33; Column 5, Lines 3-31 & 34).

With respect to claim 3, the combined teachings of Lys and Wang disclose "The condition (Lys, Column 42, Line 34) data (Lys, Column 41, Line 1) collecting system of Claim 1 wherein the information processing system (Lys, Column 61, Line 15) further includes: a payment (Wang, Column 10, Line 7) data (Column 41, Line 1) obtaining part that obtains payment data (Lys, Column 41, Line 1) concerning payment or a guarantee of payment in compensation (Wang, Column 10, Line 7) for the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1) delivered (Lys, Column 7, Line 2) in accordance with a controlling system (Lys, Column 4, Line 33; Column 5, Lines 3-31 & 34) identifier that identifies (Lys, Column 46, Lines 26 & 33-36; Column 47, Lines 5 & 22) another the second controlling system (Lys, Column 4, Line 33; Column 5, Lines 3-31 & 34) requesting the environmental (Lys, Column 32,

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Line 54; Column 34, Line 44) data (Column 41, Line 1), wherein the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1) delivering part (Lys, Column 7, Line 2) obtains the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1) from the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1) administrating part (Lys, Column 55, Line 22; Column 69, Line 38) and delivers (Lys, Column 7, Line 2) the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1) to the other controlling system (Lys, Column 4, Line 33; Column 5, Lines 3-31 & 34) identified by (Lys, Column 46 , Lines 26 & 33-36; Column 47, Lines 5 & 22) the controlling system (Lys, Column 4, Line 33; Column 5, Lines 3-31 & 34) identifier (Lys, Column 46 , Lines 26 & 33-36; Column 47, Lines 5 & 22) provided that the payment (Wang, Column 10, Line 7) data (Lys, Column 41, Line 1) obtaining part has obtained the payment data (Lys, Column 41, Line 1); and the royalty data (Lys, Column 41, Line 1) producing part produces the royalty data (Lys, Column 41, Line 1) in relationship to the controlling system (Lys, Column 4, Line 33; Column 5, Lines 3-31 & 34) identifier (Lys, Column 46 , Lines 26 & 33-36; Column 47, Lines 5 & 22) of the first controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34) provided

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that the payment data (Lys, Column 41, Line 1) obtaining part has obtained the payment (Wang, Column 10, Line 7) data," (Lys, Column 41, Line 1)

With respect to claim 4, the combined teachings of Lys and Wang disclose "The condition (Lys, Column 42, Line 34) data (Lys, Column 41, Line 1) collecting system according to Claim 1 wherein the royalty data (Lys, Column 41, Line 1) producing part produces the royalty data (Wang, Column 15, Lines 1-2) in accordance with the specific environmental (Lys, Column 32, Line 54; Column 34, Line 44) datum or data (Lys, Column 41, Line 1) delivered by (Lys, Column 7, Line 2) the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1) delivering part," (Lys, Column 7, Line 2)

With respect to claim 5, the combined teachings of Lys and Wang disclose a condition (Lys, Column 42, Line 34) data (Lys, Column 41, Line 1) collecting system according to Claim 1 wherein the royalty data (Lys, Column 41, Line 1) producing part produces the royalty data (Wang, Column 15, Lines 1-2). in accordance with the amount of environment (Lys, Column 32, Line 54; Column 34, Line 44) data used," (Lys, Column 41, Line 1)

With respect to claim 6, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system according to Claim 1 wherein the information processing system (Column 61, Line 15) further comprising includes: an assessment (Column 54, Lines 52-61) data (Column 41, Line 1) obtaining part that obtains assessment data (Column 41, Line 1) showing assessment (Column 54, Lines 52-61) of uniqueness (Column 5, Line 38) or effectiveness of the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) administered by (Column 55, Line 22; Column 69, Line 38) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) administrating part (Column 55, Line 22; Column 69, Line 38), wherein the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) delivering part delivers (Column 7, Line 2) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) provided that the contents of the assessment (Column 54, Lines 52-61) data (Column 41, Line 1) obtained by the assessment data (Column 41, Line 1) obtaining part meets a predetermined requirement," (Column 17, Line 34).

With respect to claim 7, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system

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according to Claim 1 wherein the information processing system (Column 61, Line 15) further includes: an assessment (Column 54, Lines 52-61) data (Column 41, Line 1) obtaining part that obtains the assessment (Column 54, Lines 52-61) data (Column 41, Line 1) showing the assessment of the effectiveness of the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) administered by (Column 55, Line 22; Column 69, Line 38) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) administering part (Column 55, Line 22; Column 69, Line 38), wherein the royalty data (Wang, Column 15, Lines 1-2) producing part produces the royalty data (Column 41, Line 1) based on the content of the assessment (Column 54, Lines 52-61) data (Column 41, Line 1) obtaining part.

With respect to claim 8, the combined teachings of Lys and Wang disclose "The condition (Lys, Column 42, Line 34) data (Lys, Column 41, Line 1) collecting system according to Claim 1 wherein the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1) delivering part delivers (Lys, Column 7, Line 2) source information (Lys, Column 5, Lines 55-67) indicating the [[one]] first controlling system (Lys, Column 4, Line 33; Column 5, Lines 3-31 & 34) as being the

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source (Lys, Column 5, Lines 55-67) of the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1), with this information being attached to the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1) delivered to (Lys, Column 7, Line 2) the other controlling system (Lys, Column 4, Line 33; Column 5, Lines 3-31 & 34) only when the content (Wang, Column 5, Line 10) of the information concerning the permission (Wang, Column 13, Line 30) to disclose the source (Lys, Column 5, Lines 55-67), which is received (Lys, Column 40, Line 65; Column 41, Lines 35-37) from the first controlling system (Lys, Column 4, Line 33; Column 5, Lines 3-31 & 34), is "can be disclosed," (Lys, Column, Lines).

With respect to claim 9, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system for collecting data (Column 41, Line 1) according to Claim 2 wherein the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) includes image (Column 53, Line 10; Column 54, Line 34) data (Column 41, Line 1) obtained by imaging (Column 53, Line 10; Column 54, Line 34) the relevant (Column 64, Lines 27 & 40) living organism," (Column 70, Line 35)

With respect to claim 10, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system according to Claim 9 wherein the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) delivering part delivers (Column 7, Line 2) the image (Column 53, Line 10; Column 54, Line 34) data (Column 41, Line 1) included in the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) in the form of sequential (Column 16, Line 2) images," (Column 53, Line 10; Column 54, Line 34)

With respect to claim 11, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system according to Claim 1 wherein the information processing system (Column 61, Line 15) further comprising includes: a fundamental environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) storing part that stores (Column 11, Lines 10-13; Claim 61) a fundamental environmental (Column 32, Line 54; Column 34, Line 44) datum or data (Column 41, Line 1) in advance; and a fundamental environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) delivering part that delivers (Column 7, Line 2) this data," (Column 41, Line 1)

With respect to claim 12, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system according to Claim 1 wherein the living organism (Column 70, Line 35) is a plant," (Column 62, Lines 34-36).

With respect to claim 24, the combined teachings of Lys and Wang disclose "The condition (Lys, Column 42, Line 34) data (Lys, Column 41, Line 1) collecting system of Claim 1 further including a program for comprising functions of: [[an]] the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1) receiving part (Lys, Column 40, Line 65; Column 41, Lines 35-37); the control means controlling part (Column 4, Line 33; Column 5, Lines 3-31 & 34); the environmental (Lys, Column 32, Line 54; Column 34, Line 44) data (Lys, Column 41, Line 1) transmitting part (Lys, Column 40, Line 59; Column 41, Lines 5-8) and the royalty producing part," (Wang, Column 15, Lines 1-2).

With respect to claim 25, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system according to Claim 1 further including a program for the controlling system (Column 4, Line 33; Column 5, Lines 3-31 &

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34) comprising functions of: the request signal (Column 40, Line 61; Column 41, Line 11; Column 42, Lines 3-5) transmitting part (Column 40, Line 59; Column 41, Lines 5-8), the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) receiving part (Column 40, Line 65; Column 41, Lines 35-37), the control means controlling part (Column 4, Line 33; Column 5, Lines 3-31 & 34), and the measured (Column 42, Lines 10-20) environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) receiving part," (Column 40, Line 65; Column 41, Lines 35-37)

With respect to claim 27, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system according to Claim 1 wherein the controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34) further includes: a living organism (Column 70, Line 35) state (Column 42, Lines 12 & 28; Column 70, Line 57) measuring means that measures (Column 42, Lines 10-20) the state (Column 42, Lines 12 & 28; Column 70, Line 57) of growth (Column 62, Line 55) or health (Column 63, Line 1) of living organisms (Column 70, Line 35); a state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) receiving part that receives (Column 40, Line 65; Column 41, Lines 35-37) state (Column 42, Lines 12 & 28; Column 70,

Line 57) data (Column 41, Line 1) as being data (Column 41, Line 1) concerning the growth (Column 62, Line 55) or health (Column 63, Line 1) of the living organism (Column 70, Line 35) from the living organism (Column 70, Line 35) state (Column 42, Lines 12 & 28; Column 70, Line 57) measuring means (Column 42, Lines 10-20) and a state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) transmitting part that transmits (Column 40, Line 59; Column 41, Lines 5-8) the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) received by (Column 40, Line 65; Column 41, Lines 35-37) the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) receiving part (Column 40, Line 65; Column 41, Lines 35-37) to the information processing system (Column 61, Line 15).

With respect to claim 28, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system of Claim 27 wherein the living organism (Column 70, Line 35) state (Column 42, Lines 12 & 28; Column 70, Line 57) measuring means (Column 42, Lines 10-20) comprises an imaging means (Column 53, Line 10; Column 54, Line 34) that images (Column 53, Line 10; Column 54, Line 34) a part or all of the living organism," (Column 70, Line 35)

With respect to claim 29, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system according to Claim 1 wherein the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) delivered by (Column 7, Line 2) the information processing system (Column 61, Line 15) is so arranged as to be incapable of being copied externally," (Column 10, Line 43) .

With respect to claim 30, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system according to Claim 1 according to Claim 1 wherein the environment (Column 32, Line 54; Column 34, Line 44) controlling means (Column 4, Line 33; Column 5, Lines 3-31 & 34) consists of at least a light (Column 69, Line 10) irradiating means (Column 32, Line 60; Column 33, Line 10-11), and the light (Column 69, Line 10) irradiating means (Column 32, Line 60; Column 33, Line 10-11) comprises an arrangement multiple LEDs (Column 6, Lines 28-30) of at least one red (Column 73, Line 39) LED (Column 6, Lines 28-30), blue (Column 1, Line 54) LED (Column 6, Lines 28-30), green (Column 73, Line 40) LED (Column 6, Lines 28-30), white (Column 1, Line 47) LED (Column 6, Lines 28-30) infrared (Column 47, Lines 54-55) LED (Column 6, Lines 28-30), and

ultraviolet LED (Column 56, Line 37) or any combination thereof (Column 1, Line 54).

With respect to claim 33, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system according to Claim 1 wherein the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) transmitting part transmits (Column 40, Line 59; Column 41, Lines 5-8) information (Column 40, Line 59; Column 41, Lines 5-8) concerning the permission to disclose the source information (Column 5, Lines 55-67), that indicates which controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) is delivered from (Column 7, Line 2), in order to judge whether or not the source information (Column 5, Lines 55-67) is to be attached when the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) is delivered from (Column 7, Line 2) the information processing system (Column 61, Line 15) to the other controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34).

With respect to claim 34, Lys discloses "The condition (Column 42, Line 34) collecting system of Claim 2, wherein the

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state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) administrating part administers (Column 55, Line 22; Column 69, Line 38) the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) received by (Column 40, Line 65; Column 41, Lines 35-37) the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) receiving part (Column 40, Line 65; Column 41, Lines 35-37) by adding (Column 49, Lines 21), deleting, updating (Column 16, Line 54) or outputting the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) received by (Column 40, Line 65; Column 41, Lines 35-37) the state (Column 42, Lines 12 & 28; Column 70, Line 57) data (Column 41, Line 1) receiving part (Column 40, Line 65; Column 41, Lines 35-37).

With respect to claim 35, Lys discloses "The condition (Column 42, Line 34) collecting system of Claim 1 wherein the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) includes data (Column 41, Line 1) concerning an amount of humidity (Column 47, Line 49) in the environment (Column 32, Line 54; Column 34, Line 44) of the living organism," (Column 70, Line 35)

With respect to claim 36, Lys discloses "The condition (Column 42, Line 34) collecting system of Claim 35 wherein the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) includes data (Column 41, Line 1) concerning an amount of CO₂ (Column 5, Line 59) in the environment (Column 32, Line 54; Column 34, Line 44) of the living organism," (Column 70, Line 35)

With respect to claim 37, Lys discloses "The condition (Column 42, Line 34) collecting system of Claim 35 wherein the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) includes data (Column 41, Line 1) concerning a temperature (Column 45, Line 67; Column 72, Line 5) in the environment (Column 32, Line 54; Column 34, Line 44) of the living organism," (Column 70, Line 35)

With respect to claim 38, Lys discloses "The condition (Column 42, Line 34) collecting system of Claim 1, wherein the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) administrating part administers (Column 55, Line 22; Column 69, Line 38) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) received by (Column 40, Line 65; Column 41, Lines 35-37) the environmental

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(Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) receiving part (Column 40, Line 65; Column 41, Lines 35-37) by adding (Column 49, Lines 21), deleting, updating (Column 16, Line 54) or outputting the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) received by (Column 40, Line 65; Column 41, Lines 35-37) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) receiving part," (Column 40, Line 65; Column 41, Lines 35-37).

With respect to claim 39, Lys discloses "A condition (Column 42, Line 34) data (Column 41, Line 1) collecting system for promoting a growth (Column 62, Line 55) or a health (Column 63, Line 1) of a living organism (Column 70, Line 35) comprising: an information processing system (Column 61, Line 15) including means for receiving a (Column 40, Line 65; Column 41, Lines 35-37) request signal (Column 40, Line 61; Column 41, Line 11; Column 42, Lines 3-5) requesting delivery of (Column 7, Line 2) environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) that is specified by an environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) identifier (Column 46, Lines 26 & 33-36; Column 47, Lines 5 & 22), means for transmitting (Column 40, Line 59; Column 41, Lines 5-8) environmental (Column 32, Line 54; Column 34, Line

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44) data (Column 41, Line 1) specified by the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) identifier (Column 46 , Lines 26 & 33-36; Column 47, Lines 5 & 22), means for receiving (Column 40, Line 65; Column 41, Lines 35-37) environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) relating to an environment (Column 32, Line 54; Column 34, Line 44) of the living organism (Column 70, Line 35) including characteristics of a light (Column 69, Line 10) irradiated (Column 32, Line 60; Column 33, Line 10-11) on the living organism (Column 70, Line 35), means for administering (Column 55, Line 22; Column 69, Line 38) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) received by (Column 40, Line 65; Column 41, Lines 35-37) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) receiving part (Column 40, Line 65; Column 41, Lines 35-37), means for transmitting (Column 40, Line 59; Column 41, Lines 5-8) environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) by obtaining the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) administered by (Column 55, Line 22; Column 69, Line 38) the means for administering (Column 55, Line 22; Column 69, Line 38) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) received by

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(Column 40, Line 65; Column 41, Lines 35-37) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) receiving part (Column 40, Line 65; Column 41, Lines 35-37) and transmitting (Column 40, Line 59; Column 41, Lines 5-8) the environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) to a second controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34), and means for producing royalty data (Column 41, Line 1) which is a payment to be received (Column 40, Line 65; Column 41, Lines 35-37) in return for disclosing a proprietary environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) to the second controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34) in conjunction with a controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34) identifier that identifies (Column 46, Lines 26 & 33-36; Column 47, Lines 5 & 22) a producer of the proprietary environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1), when the proprietary environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) is received (Column 40, Line 65; Column 41, Lines 35-37) or delivered (Column 7, Line 2); and a first controlling system (Column 4, Line 33; Column 5, Lines 3-31 & 34) producing the proprietary environmental (Column 32, Line 54; Column 34, Line 44) data (Column 41, Line 1) including means for transmitting

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(Column 40, Line 59; Column 41, Lines 5-8) a request signal
(Column 40, Line 61; Column 41, Line 11; Column 42, Lines 3-5)
requesting delivery of by (Column 7, Line 2) information
processing system (Column 61, Line 15), means for receiving
(Column 40, Line 65; Column 41, Lines 35-37) environmental
(Column 32, Line 54; Column 34, Line 44) data (Column 41, Line
1) specified by the environmental (Column 32, Line 54; Column
34, Line 44) data (Column 41, Line 1) identifier (Column 46 ,
Lines 26 & 33-36; Column 47, Lines 5 & 22) delivered by (Column
7, Line 2) the information processing system (Column 61, Line
15), means for controlling (Column 4, Line 33; Column 5, Lines
3-31 & 34) at least one environment (Column 32, Line 54; Column
34, Line 44) control means to control (Column 4, Line 33; Column
5, Lines 3-31 & 34) the environment (Column 32, Line 54; Column
34, Line 44) of the living organism (Column 70, Line 35) based
on the environmental (Column 32, Line 54; Column 34, Line 44)
data (Column 41, Line 1), and a measured (Column 42, Lines 10-
20) environmental (Column 32, Line 54; Column 34, Line 44) data
(Column 41, Line 1) receiving part that receives (Column 40,
Line 65; Column 41, Lines 35-37) measured (Column 42, Lines 10-
20) environmental (Column 32, Line 54; Column 34, Line 44) data
(Column 41, Line 1) indicating measured values (Column 42,
Lines 10-20) of the environment (Column 32, Line 54; Column 34,

Line 44) of the living organism (Column 70, Line 35) from the environment (Column 32, Line 54; Column 34, Line 44) measuring means (Column 42, Lines 10-20) that measures (Column 42, Lines 10-20) the relevant (Column 64, Lines 27 & 40) environment (Column 32, Line 54; Column 34, Line 44).

6. Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lys et al and Wang et al, further in view of Siegel et al (US Patent No: 7,112,566 B1) hereinafter "Siegel," further in view of Pelka et al (US Patent No: 6,177,761 B1) hereinafter "Pelka."

With respect to claim 31, Lys discloses "The condition (Column 42, Line 34) data (Column 41, Line 1) collecting system according to Claim 1 wherein the environment (Column 32, Line 54; Column 34, Line 44) control means (Column 4, Line 33; Column 5, Lines 3-31 & 34) comprises one or multiple LEDs (Column 6, Lines 28-30), and a transparent solid pyramidal body arranged in front of the LEDs (Column 6, Lines 28-30), and (Column 42, Lines 12 & 28; Column 70, Line 57), mitigating pain or stiffness, or healing in subjects bathed in the light (Column 69, Line 10) irradiated (Column 32, Line 60; Column 33, Line 10-11)

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externally from the LEDs (Column 6, Lines 28-30) through the pyramidal body.

The combination of Lys and Wang does not explicitly disclose "hypnagogic state."

However, Siegel discloses "Hypnagogic hallucinations," (Column 11, Line 26).

The combination of Lys, Wang and Siegel are analogous art because they are from the same field of endeavor involving therapeutic treatments.

At the time of invention, it would have been obvious to one of ordinary skill to in the art, having the teachings of the combination of Lys, Wang and Siegel before him or her, to modify the teachings of the combination of Lys, Wang, and Siegel by adding hypnagogic hallucinations as taught by Siegel. The motivation for doing so would enable a user to treat vision and manifestations consisting of simple forms such as colored circles, parts of objects that may be constant in size or changing or are more complex with recurring sleep paralysis (Column 11, Lines 26-27 & 46-50). It would be advantageous to cure sleep paralysis in patients who suffer from hypnagogic

hallucinations. The cited additional element would not interfere with the functionality of steps previously claimed and would perform the same function. Therefore it would have been obvious to combine Lys and Wang with Siegel to obtain the invention as specified in the instant claim(s).

The combination of Lys, Wang, and Siegel does not explicitly disclose "a pyramidal body."

However, Pelka discloses "an apparatus to extract light from an LED with a pyramidal body," (Claim 1).

The combination of Lys, Wang, Siegel, and Ref are analogous art because they are from the same field of endeavor involving therapeutic treatments.

At the time of invention, it would have been obvious to one of ordinary skill to in the art, having the teachings of the combination of Lys, Wang, Siegel, and Pelka before him or her, to modify the teachings of the combination of Lys, Wang, Siegel, and Pelka by adding a pyramidal body as taught by Siegel. The motivation for doing so would enable a user to expose three or more sides to transmit light (Claim 1 and Claim 13). It would be

advantageous to have more light transmitted when therapeutically treating patients with sleep paralysis to ensure a highly effective treatment. The cited additional element would not interfere with the functionality of steps previously claimed and would perform the same function. Therefore it would have been obvious to combine Lys, Wang and Siegel with to obtain the invention as specified in the instant claim(s).

With respect to claim 32, the combination of Lys, Wang, Siegel, and Pelka discloses "The condition (Lys, Column 42, Line 34) data (Lys, Column 41, Line 1) collecting system according to Claim 31 wherein the environment (Lys, Column 32, Line 54; Column 34, Line 44) control means (Lys, Column 4, Line 33; Column 5, Lines 3-31 & 34) comprises a cylindrical casing (Lys, Column 30, Line 44) that accommodates the LEDs (Lys, Column 6, Lines 28-30) and the pyramidal body (Pelka, Abstract, Claim 1, Claim 13), and is so arranged that the light (Lys, Column 69, Line 10) is irradiated (Lys, Column 32, Line 60; Column 33, Line 10-11) from a front end face of the casing and the front end face can be covered with a soft transparent or translucent cap (Lys, Column 36, Line 33; Column 40, Lines 6-7).

Response to Arguments

7. Applicant's arguments with respect to claims 1-12, 24-25, and 27-39 filed 01/24/2008 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES J. WILCOX whose telephone number is (571)270-3774. The examiner can normally be reached on Days: M-F Times: 8 A.M.-5 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pierre M. Vital can be reached on (571)272-4215. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JJW (May 13, 2008)

VFB

/Pierre M. Vital/

Supervisory Patent Examiner, Art Unit 2169